

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

LA MESA RACETRACK AND
CASINO, L.P.,

Plaintiff,
vs.

No. 1:13-cv-01238-PJK-KBM

NEW MEXICO RACING
COMMISSION, MARTY COPE,
ARNOLD RAE, LARRY DELGADO,
THOMAS EDDIE FOWLER and RAY
WILLIS, in their individual and official
capacities,

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

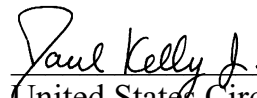
THIS MATTER comes on for consideration of Plaintiff's Motion to Reconsider
Or, In the Alternative, for Leave to Amend Complaint filed August 13, 2014 (Doc. 16).
Upon consideration thereof, the motion is not well taken and should be denied.

The court treats the motion as one arising under Fed. R. Civ. P. 59(e) because it
was filed 28 days after the memorandum opinion and order granting Defendants' motion
to dismiss. Demahy v. Schwarz Pharma, Inc., 702 F.3d 177, 182 n.2 (5th Cir. 2012)
(noting that motion filed within 28 days of an order is a Rule 59(e) motion); United States
v. McDonald, No. 14-3138, 2014 WL 5509795, at *2 (10th Cir. Nov. 3, 2014) (same). A
motion for reconsideration under Rule 59(e) may be warranted when there has been an

intervening change in the law, newly discovered evidence, or clear error or manifest injustice. Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000). None of those factors are present here: Plaintiff argues that it provided sufficient facts to withstand dismissal of its due process and equal protection claims. The court is not persuaded based upon Plaintiff's recitation of the same facts that resulted in a dismissal (for a lack of specificity). Insofar as granting leave to file an amended complaint, Plaintiff has failed to attach a copy of such a complaint and therefore the request should be denied. See D.N.M. LR-Civ. 15.1; Mercer-Smith v. N.M. Children, Youth & Families Dep't, 416 F. App'x 704, 713 (10th Cir. Mar. 21, 2011).

NOW, THEREFORE, IT IS ORDERED, ADJUDGED, and DECREED that Plaintiff's Motion to Reconsider Or, In the Alternative, for Leave to Amend Complaint filed August 13, 2014 (Doc. 16) is denied.

DATED this 20th day of January 2015, at Santa Fe, New Mexico.


United States Circuit Judge
Sitting by Designation